

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MICHELLE HARRIS (FKA HENRY),

Plaintiff,

vs.

Case No. 20-

LIFE INSURANCE COMPANY
OF NORTH AMERICA,

Defendant,

_____/

DONALD W. BUSTA, JR. (P67544)
Attorney for Plaintiff
LEVINE BENJAMIN, P.C.
100 Galleria Officentre, Suite 411
Southfield, Michigan 48034
Phone (248) 352-5700
Fax (248) 352-1312
dbusta@levinebenjamin.com

_____/

PLAINTIFF'S COMPLAINT

NOW COMES Plaintiff, MICHELLE HARRIS, by and through her attorneys, DONALD W. BUSTA, JR, and LEVINE BENJAMIN, P.C., and for her Complaint against Defendant, LIFE INSURANCE COMPANY OF NORTH AMERICA, states as follows:

1. At all times, relevant hereto, Plaintiff, MICHELLE HARRIS, is a resident of the City of Farmington Hills, County of Oakland and State of Michigan.

2. At all times, relevant hereto, Defendant, LIFE INSURANCE COMPANY OF NORTH AMERICA, is a foreign insurance corporation in good standing and continuously conducting business throughout the State of Michigan.

3. At all times, relevant hereto, Defendant, LIFE INSURANCE COMPANY OF NORTH AMERICA, was compensated for and provided Long-Term Disability coverage pursuant to the terms of a group employee benefits plan provided for the benefit of Plaintiff, MICHELLE HARRIS, and other employees, by their employer.

4. The Long-Term Disability insurance policies issued by Defendant, LIFE INSURANCE COMPANY OF NORTH AMERICA, are group employee benefit plans covered by and within the meaning of the Employee Retirement Income Security Act ("ERISA"), 29 U.S.C. § 1001 et seq.

5. The terms of said contracts of insurance obligated Defendant, LIFE INSURANCE COMPANY OF NORTH AMERICA, to provide Plaintiff, MICHELLE HARRIS, with Long-Term Disability Benefits, in the event that Plaintiff was rendered unable to work due to injury, disease or other medical condition.

6. That Plaintiff, MICHELLE HARRIS, suffers from a major depressive disorder, generalized anxiety disorder, cervical stenosis/ radiculopathy, chronic myalgias and fibro myositis. As a result, Plaintiff's conditions have made it impossible for her to work.

7. Defendant, LIFE INSURANCE COMPANY OF NORTH AMERICA, has wrongfully denied Plaintiff's Long-Term Disability Benefits.

8. Defendant's denial of benefits was arbitrary and capricious and was contrary to medical and other evidence that overwhelmingly supports Plaintiff's

claim of total and permanent disability. Defendant's refusal to pay Plaintiff's benefits therefore amounts to a breach of the contract for insurance.

9. Plaintiff, MICHELLE HARRIS, has exhausted all required appeals and/or reconsideration processes provided by Defendant; nevertheless, Defendant refuses to resume payment of benefits rightfully due and owing to Plaintiff.

10. Plaintiff, MICHELLE HARRIS, is a person empowered to bring a civil action under 29 U.S.C. § 1132(a)(1)(B) to force the Defendant to comply with the Act and pay Long-Term Disability Benefits to Plaintiff.

11. 29 U.S.C. § 1132(a)(1)(B) reads as follows:

(a) Persons Empowered to Bring a Civil Action
A civil action may be brought –

(1) by a participant or beneficiary –

(B) to recover benefits due to her under the terms of the plan, to enforce her rights under the terms of the plan, or to clarify her rights to future benefits under the terms of the plan[.]

12. As a result of Defendant's wrongful denial of Long-Term Disability Benefits, Plaintiff, MICHELLE HARRIS, has sustained the following damages, including, but not limited to:

(a) Loss of past, present and future income in the form of wage loss compensation benefits;

WHEREFORE, Plaintiff, MICHELLE HARRIS, prays for Judgment in her favor and against the Defendant, LIFE INSURANCE COMPANY OF NORTH AMERICA, in whatever amount she is found to be entitled, in addition to costs, interest and attorney fees.

Respectfully submitted,

LEVINE BENJAMIN, P.C.

/s/ DONALD W. BUSTA, JR

Attorneys for Plaintiff

100 Galleria Officentre, Suite 411

Southfield, MI 48034

Phone (248) 352-5700

Fax (248) 352-1312

dbusta@levinebenjamin.com

Dated: June 5, 2020